

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TIMOTHY W. WILSON,

Petitioner,

vs.

SCOTT R. FRAKES,

Respondent.

4:17CV3155

**MEMORANDUM
AND ORDER**

This matter is before the court on Petitioner's Objection to State Court Records in Support of Answer ([filing no. 12](#)), Motion to Expand the Record ([filing no. 13](#)), and Motion to Produce One True Copy ([filing no. 14](#)). Petitioner objects to the state court records filed with the court by Respondent on the grounds that the filing is incomplete and "does not establish what is or is not part of the record." ([Filing No. 12.](#)) Petitioner asks the court to expand the record to include ninety-five documents he claims are necessary to address his habeas claims and to provide him a copy of those documents as well as copies of the state court records filed by Respondent. ([Filing No. 13](#); [Filing No. 14.](#))

In the court's March 29, 2018 Progression Order, the court outlined the procedures to be followed should Respondent elect to file an answer. ([Filing No. 8.](#)) In pertinent part, the Progression Order states:

Copies of the answer, the designation, and Respondents' brief must be served on Petitioner at the time they are filed with the court *except that Respondents are only required to provide Petitioner with a copy of the specific pages of the designated record that are cited in Respondents' answer and brief.* In the event that the designation of state court records is deemed insufficient by Petitioner or Petitioner needs additional records from the designation, Petitioner may file a motion with the court requesting additional documents. Such motion

must set forth the documents requested and the reasons the documents are relevant to the cognizable claims.

([Id. at CM/ECF p.5](#)) (emphasis added).

Here, Respondent filed the Designation of State Court Records in Support of Answer on May 14, 2018. ([Filing No. 11](#).) Respondent has until June 12, 2018, to file an answer and brief in support of his answer at which time Respondent will be obligated to provide Petitioner with copies of the specific pages of the state court records that are cited within Respondent's answer and brief. Because Respondent has not yet filed an answer and brief, Petitioner's motions are premature and will be denied at this time without prejudice to reassertion. If Petitioner determines that he needs additional records after receiving Respondent's answer, brief, and copies of the related state court records, Petitioner may renew his request for additional documents pursuant to the procedure in the Progression Order outlined above. Accordingly,

IT IS ORDERED that Petitioner's Objection to State Court Records in Support of Answer ([filing no. 12](#)), Motion to Expand the Record ([filing no. 13](#)), and Motion to Produce One True Copy ([filing no. 14](#)) are denied without prejudice to reassertion.

Dated this 6th day of June, 2018.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge